

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MONSANTO COMPANY and
MONSANTO TECHNOLOGY LLC,

Plaintiffs,

VS.

E.I. DUPONT DE NEMOURS AND
COMPANY and PIONEER HI-BRED
INTERNATIONAL, INC.,

Defendants.

Case No. 4:09-cv-00686-ERW

**PLAINTIFFS' MOTION FOR LEAVE TO FILE REPLY MEMORANDUM IN
SUPPORT OF FIFTH MOTION TO COMPEL IN EXCESS OF FIFTEEN PAGES**

Plaintiffs, Monsanto Company and Monsanto Technology LLC (collectively “Monsanto”), respectfully request leave of Court allowing Monsanto to file a reply memorandum in support of their Fifth Motion to Compel, containing approximately 26 pages. The additional pages for Monsanto’s reply brief are necessary to adequately address 1) the numerous instances in which Defendants have taken contradictory positions before this Court on the topic at issue, 2) how Defendants are using privilege unfairly as both a sword and a shield, and 3) on point Delaware case law that refutes every argument Defendants raise to avoid having to produce privileged communications pursuant to their unmistakable waiver. Monsanto confirms that the brief is not repetitive and will substantially aid the Court in resolving the underlying motion.

Dated: April 20, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 20th day of April, 2011, the foregoing was filed electronically with the Clerk of the Court for the United States District Court for the Eastern District of Missouri, Eastern Division, and was served by operation of that Court's electronic filing system, upon the following:

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